

**Agreement
Concerning Joint Funding of Amtrak
Hoosier State Service Through January 2015**

EDS No. _____

This Agreement is entered into this ____ day of _____, 2013 by and between the City of Rensselaer, Indiana (hereinafter "Rensselaer"); Tippecanoe County, Indiana (hereinafter the "County"); the City of Lafayette, Indiana (hereinafter "Lafayette"); the City of West Lafayette, Indiana (hereinafter "West Lafayette"); the City of Crawfordsville, Indiana (hereinafter "Crawfordsville"); the City of Indianapolis, Indiana (hereinafter "Indianapolis"); and the Town of Beech Grove, Indiana (hereinafter "Beech Grove"), and jointly referred to herein as the Parties; and the State of Indiana, acting by and through the Indiana Department of Transportation (hereinafter "INDOT"). The term "Local Parties" or "LPAs" shall be used herein to refer to all parties except INDOT.

RECITALS

WHEREAS, under Section 209 of the Passenger Rail Investment and Improvement Act of 2008, Pub. L. No. 110-432, 122 Stat. 4848 ("PRIIA"), Congress required, among other things, that the National Passenger Rail Corporation ("Amtrak"), in consultation with the relevant states and the District of Columbia, develop and implement a methodology for allocating the operating and capital costs of rail routes of not more than 750 miles between the relevant states and Amtrak; and

WHEREAS, Amtrak developed such a methodology in consultation with a group of states, and in a decision effective April 14, 2012, the Surface Transportation Board ("STB") adopted Amtrak's proposed methodology to meet the requirements of PRIIA (the "Section 209 Methodology"); and

WHEREAS, the intercity railroad passenger service covered by the Amtrak Agreement consists of one round-trip, four days per week (Hoosier State Service – Trains 850 and 851) between Chicago, Illinois and Indianapolis, IN, collectively referred to herein as the "Hoosier State Service" or the "HSS"); and

WHEREAS, the Hoosier State Service plays an important role in the effective operation of Amtrak's Beech Grove, Indiana heavy maintenance shop by ferrying rolling stock between Chicago and Beech Grove; and

WHEREAS, the Local Parties have determined that continuation of service of the Hoosier State Service is in the best interest of their communities and are able and willing to participate in subsidizing the cost of operation of the Hoosier State Line; and

WHEREAS, INDOT is able and willing to provide financial and technical support to the Local Parties in order to maintain the service of the Hoosier State Line; and

WHEREAS, INDOT and Amtrak, with the concurrence of the Local Parties, have entered into an Agreement to continue to provide for an Indiana based system of intercity railroad passenger trains in connection with Amtrak's nationwide system, such system to operate for the benefit of Indiana residents and passengers connecting to interstate Amtrak trains (the "Amtrak Agreement", EDS No. A249-14-320314, attached as **Exhibit A** and herein incorporated by reference); and

WHEREAS, the Parties, subject to the terms and conditions herein, wish to provide funding to support continued operation of the Hoosier State Service at least through the expiration of the Amtrak Agreement (January 31, 2015), and wish to negotiate a longer term agreement for the continuation of the Hoosier State Service; and

WHEREAS, though the Parties wish for the Hoosier State Service to continue, the Parties believe that the current operating and funding model can be improved through collaboration among the State, Amtrak and applicable host freight railroads in order to achieve a viable long-term solution for the successful operation of the Hoosier State Service and passenger rail service in Indiana; and

WHEREAS, the Parties wish to work collaboratively with Amtrak to achieve certain measureable improvements to the level of Hoosier State Service (as defined herein) as a return on the tax dollars being invested to continue service;

NOW THEREFORE, in consideration of the premises and the mutually dependent covenants herein contained, the PARTIES hereto agree as follows:

1.1. Purpose. The purposes of this Agreement are:

- A. To provide funding for the HSS through the term of the Amtrak Agreement;
- B. To specify the cash and in-kind contributions to be made by each Local Party and INDOT for the continuation of the HSS through the term and any extension of the Amtrak Agreement;
- C. To create an Oversight Board for the long term management of the HSS; and
- D. To specify the purpose and responsibilities of the Oversight Board.

1.2. Funding of Hoosier State Service.

A. Costs of HSS Operation. Pursuant to the Amtrak Agreement and in accordance with the Section 209 Methodology, continued operation of the HSS costs \$244,916.00 per month. The Amtrak Agreement also provides a flat monthly credit for Amtrak cars transported to the Amtrak maintenance facility in Beech Grove in the amount of \$21,667.00 to offset costs of service. Including this credit, the total cost of the HSS Service per month is \$223,249.00, through September 30, 2014.

The Amtrak Agreement provides for a one-time extension from September 30, 2014 through January 31, 2015. A three percent (3%) escalation fee will be applied to the monthly cost of the HSS during this extension period. This means the total cost of the HSS per month during the extension period ending January 31, 2015 (less the monthly credit) shall be \$230,597.00.

B. INDOT Contributions. The Amtrak Agreement provides for continued operation of the HSS through September 30, 2014, and possibly through January 31, 2015 (unless the agreement is terminated or the parties reach a new, longer term agreement prior to September 30, 2014). INDOT shall contribute \$111,779.00 plus \$16,625 (the amount of Beech Grove's in-kind contribution) for at total of \$128,424.00 for each month that the local Parties contribute their respective share as specified in Section 1.2.C.

C. Local Contributions. The Local Parties shall contribute funds in an amount equal to the remainder of the actual operating costs for the HSS, and in accordance with all terms of this Agreement. Through September 30, 2014, each Local Party shall be responsible to make the following monthly contribution:

- (i.) Beech Grove \$16,625.00 in-kind

(ii.)	Indianapolis	\$25,000.00 cash (from Indianapolis MPO funds)
(iii.)	Crawfordsville	\$10,046.00 cash
(iv.)	West Lafayette	\$16,667.00 cash
(v.)	Lafayette	\$16,667.00 cash
(vi.)	Tippecanoe County	\$25,000.00 cash
(vii.)	Rensselaer	\$1,500.00 cash
<u>TOTAL:</u>		<u>\$102,173.00</u> (Cash Contributions)

In-kind contributions include the provision of police and fire services at the Amtrak maintenance facility.

In the event that INDOT and the Oversight Board elect to extend the Amtrak Agreement through January 31, 2015, the amount of the monthly payment by each Party shall be increased by three percent (3%) to cover the escalation costs imposed under the Amtrak Agreement.

D. INDOT will not be responsible to fund any services, costs, charges or other expense associated with the HSS beyond the contribution identified herein, or above the amount of **\$128,424.00**. Further, the maximum amount that INDOT will contribute to operation of the Hoosier State Service under the current Amtrak Agreement or under any future long-term agreement that may be negotiated by the Parties with Amtrak or any other operator of passenger rail service shall not exceed **\$1,500,000.00** annually.

E. *Funding for a Multi-year Agreement.* In the event that a Local Party is not able to obtain funding, after affirmatively requesting such funding, for the provision of the goods and services to be provided in accordance with this Agreement, the Local Party may terminate this Agreement on thirty (30) days written notice to INDOT and all other Local Parties. However, nothing herein shall prevent INDOT and any remaining Local Parties from continuing the HSS, providing additional funding to cover any shortfall, and amending or modifying this Agreement accordingly.

INDOT and the Local Parties understand that the funding for a multi-year agreement is done on a year-to-year basis, and this provision applies annually.

1.3. Payment of Local Funding Contributions. INDOT shall invoice the Local Parties in advance, on the first day of each month for an amount equal to the amounts specified in Section 1.2.C. The Parties shall pay their respective contributions using eligible funding sources to INDOT no later than fifteen (15) days after the date of the invoice. The Parties understand and agree that their monthly contributions are retroactive to October 1, 2013 (the date upon which service under the Amtrak Agreement began) and the first monthly invoice will include the payments due since October 1, 2013.

1.4. Creation and Responsibilities of HSS Oversight Board.

A. Local Parties contributing funds and/or in-kind services for the continued operation of the HSS in accordance with Sections 1.2 and 1.3 above shall establish an Oversight Board to monitor and manage the operations of the HSS. Each Party shall designate a qualified representative to serve on an Oversight Board, which shall meet at least once per month, until and unless the Oversight Board decides otherwise.

B. As soon as practicable after full execution of this Agreement, an initial meeting of the Oversight Board shall be called. At the initial meeting, or at such later time as may be determined by the Board at the initial meeting, the Board shall determine the structure of the Board, meeting frequency and dates, leadership, adoption of by-laws, and any other necessary administrative matters by majority vote.

C. The responsibilities of the Oversight Board shall include: setting fares and fare increases; determining changes in service; adding or removing stops; deciding how any costs of changes in service are to be divided among the local parties; providing concurrence in the event that the HSS is to be terminated; managing the development and scoring of Requests for Proposals (RFPs) for privatization of any portion of the HSS, and acceptance of winning proposals for privatization; review of HSS performance metrics; negotiation of future contracts with Amtrak or other rail service providers; monitoring contract compliance; and providing input and concurrence in future agreements between INDOT and Amtrak for the HSS. Moreover, the Oversight Board shall be responsible to identify and to provide any additional funding needed as a result of changes in service beyond the scope of the INDOT-Amtrak Short Term Agreement.

D. Decisions of the Oversight Board shall be made by majority vote. INDOT's role on the Oversight Board shall be to provide certain administrative support, including to assist in monitoring contract compliance, to provide updates on contract metrics, to provide technical advice in preparation of any RFPs, and, with full approval, ratification and participation of all Local Parties, to issue RFPs and enter into contracts.

1.5. **Public Disclosures.** The Parties shall consult with each other and must agree as to the timing, content, and form before issuing any press release or other public disclosure related to this Agreement or any transaction contemplated by this Agreement. However, this does not prohibit any Party from making a public disclosure regarding this Agreement and the transactions contemplated herein if, in the opinion of its legal counsel, such a disclosure is required by law, including but not limited to Indiana's Access to Public Records Act (IC 5-14-3), legal process or directive of a regulatory authority having jurisdiction over the party.

1.6. **Term and Termination.** This Agreement shall remain in full force and effect from the date of full execution through December 31, 2015, unless amended, modified or terminated as provided herein. In the event that INDOT or the Oversight Board decides to terminate the Amtrak Agreement, or the Amtrak Agreement and any extension thereof expires without a new agreement for continued operation of the HSS being executed, this Agreement shall automatically terminate.

II. GENERAL PROVISIONS.

2.1. **Access to Records.** The Local Parties shall maintain all books, documents, papers, correspondence, accounting records and other evidence pertaining to the cost incurred under this Agreement, and shall make such materials available at their respective offices at all reasonable times during the period of this Agreement and for ten (10) years from the date of final payment under the terms of this Agreement, for inspection or audit by all other Local Parties, or its authorized representative, and copies thereof shall be furnished free of charge, if requested by all other Local Parties. The Local Parties agree that, upon request by any agency participating in federally-assisted programs with whom the Local Parties has agreed to or seeks to agree to, all other Local Parties may release or make available to the agency any working papers from an audit performed by all other Local Parties of the Local Parties in connection with this Agreement, including any books, documents, papers, accounting records and other documentation which support or form the basis for the audit conclusions and judgments.

2.2. **Audit.** The Local Parties acknowledge that each may be required by any other to submit to an audit of funds paid through this Agreement. Any such audit shall be conducted in accordance with IC 5-11-1, et. seq. and audit guidelines (including applicable provisions of the Office of Management and

Budget Circulars A-133, Audits of States, Local Governments, and Non-Profit Organizations) specified by the State and/or in accordance with audit requirements specified elsewhere in this Agreement.

2.3. Authority to Bind. The signatory for each Local Party warrants that he/she has the necessary authority to enter into this Agreement. The signatory for each Local Party represents that he/she has been duly authorized to execute this Agreement on behalf of his/her Local Party, and has obtained all necessary or applicable approval to make this Agreement fully binding upon the Local Parties when his/her signature is affixed to this Agreement.

2.4. Certification for Federal-Aid Contracts Lobbying Activities. The Local Party certifies, by signing and submitting this Agreement, to the best of its knowledge and belief that it complied with Section 1352, Title 31, U.S. Code, and specifically, that:

A. No federal appropriated funds have been paid or will be paid, by or on behalf of the Local Parties, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal agreements, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.

B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with such federal agreement, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2.5. Compliance with Laws.

A. Each Local Party shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment of any state or federal statute, or the promulgation of regulations thereunder after execution of this Agreement shall be reviewed by the Local Parties to determine whether formal modifications are required to the provisions of this Agreement.

B. Each Local Party and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in Indiana Code § 4-2-6, et seq., Indiana Code § 4-2-7, et. seq., the regulations promulgated thereunder, and Executive Order 05-12, dated January 12, 2005. If the Local Party is not familiar with these ethical requirements, the Local Party should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <<<http://www.in.gov/ethics/>>>>. If any Local Party or its agents violate any applicable ethical standards, any other Local Party may, at its sole discretion, terminate this Agreement immediately upon notice to the other Local Parties. In addition, an offending Local Party may be subject to penalties under Indiana Code §§ 4-2-6 and 4-2-7, and under any other applicable state or federal laws.

C. Each Local Party certifies by entering into this Agreement, that it is not presently in arrears in payment of any permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. Further, each Local Party agrees that any payments in arrears and currently due to the State of Indiana may be withheld from payments due to it. Additionally, further work or payments may be withheld, delayed, or denied and/or this Agreement suspended until the Local Party becomes current in its payments and has submitted proof of such payment to the other Local Parties.

D. As required by IC 5-22-3-7: (1) Each Local Party and its principals certify that (A) except for de minimus and nonsystematic violations, it has not violated the terms of (i) IC 24-4.7 [Telephone Solicitation Of Consumers], (ii) IC 24-5-12 [Telephone Solicitations] , or (iii) IC 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) the Local Party will not violate the terms of IC 24-4.7 for the duration of the Agreement, even if IC 24-4.7 is preempted by federal law. (2) Each Local Party and its principals certify that an affiliate or principal of the Local Party and any agent acting on behalf of the Local Party or on behalf of an affiliate or principal of the Local Party (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and (B) will not violate the terms of IC 24-4.7 for the duration of the Agreement, even if IC 24-4.7 is preempted by federal law.

2.6. Drug-Free Workplace Certification. Each Local Party hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace, and that it will give written notice to the other Local Parties and the Indiana Department of Administration within ten (10) days after receiving actual notice that an employee of the Local Party in the State of Indiana has been convicted of a criminal drug violation occurring in the Local Parties' workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of Agreement payments, termination of the Agreement and/or debarment of contracting opportunities with the State of Indiana for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total Agreement amount set forth in this Agreement is in excess of \$25,000.00, each Local Party hereby further agrees that this Agreement is expressly subject to the terms, conditions and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Indiana Department of Administration is requiring the inclusion of this certification in all agreements with and grants from the State of Indiana in excess of \$25,000.00. No award of an agreement shall be made, and no purchase order or agreement, the total amount of which exceeds \$25,000.00, shall be valid, unless and until this certification has been fully executed by the Local Party and made a part of the agreement as part of the executed contract.

The Local Party certifies and agrees that it will provide a drug-free workplace by:

a. Publishing and providing to all of its employees a statement notifying their employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Local Parties workplace and specifying the actions that will be taken against employees for violations of such prohibition;

b. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Local Parties policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

c. Notifying all employees in the statement required by subparagraph (a) above that as a condition of continued employment the employee will (1) abide by the terms of the statement; and (2) notify the Local Party of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

d. Notifying in writing the State within ten (10) days after receiving notice from an employee under subdivision (c)(2) above, or otherwise receiving actual notice of such conviction;

e. Within thirty (30) days after receiving notice under subdivision (c)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) take appropriate personnel action against the employee, up to and including termination; or (2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

f. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (a) through (e) above.

2.7. Employment Eligibility Verification.

a. The Local Party affirms under the penalties of perjury that it does not knowingly employ an unauthorized alien.

b. The Contractor(s) who are awarded contracts for the Project shall be required to enroll in and verify the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in IC 22-5-1.7-3. The Contractor is not required to participate should the E-Verify program cease to exist. Additionally, the Contractor is not required to participate if the Contractor is self-employed and does not employ any employees.

c. Such Contractor(s) may not knowingly employ or contract with an unauthorized alien and may not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.

d. Such Contractor(s) shall be required to require his/her/its subcontractors who perform work on construction of the Project to certify to the Contractor that the subcontractor does not knowingly employ or contract with an unauthorized alien and that the subcontractor has enrolled and is participating in the E-Verify program. The Contractor(s) will be required to agree to maintain this certification throughout the duration of the term of a contract with a subcontractor.

e. The Local Parties may terminate any Contractor contracts for default if the Contractor fails to cure a breach of these provisions no later than thirty (30) days after being notified of such breach.

2.8. Force Majeure. In the event either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a Force Majeure Event), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

2.9. Funding Cancellation Clause. In the event the Director of the Indiana Office of Management and Budget makes a written determination that funds are not appropriated or otherwise available to support continuation of Indiana's performance of its obligations under this Agreement, this

Agreement shall be canceled. A determination by either Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

2.10. Governing Law and Mediation. This Agreement shall be construed in accordance with and governed by the laws of the State of Indiana, and suit, if any, must be brought in the State of Indiana.

2.11. Hold-Harmless. The Local Parties agree to and shall exculpate and hold harmless the State of Indiana, INDOT and/or its/their officials, agents, representatives, attorneys and employees, individually and/or jointly, from any and all claims, demands, actions, liability and/or liens that may be asserted by the Local Parties and/or by any other person, firm, corporation, insurer, government or other legal entity, for any claim for damages arising out of any and all loss, damage, injuries, and/or other casualties of whatsoever kind, or by whomsoever caused, to the person or property of anyone arising out of or resulting from the performance of the contract or from the installation, existence, use, maintenance, condition, repairs, alteration and/or removal of any equipment or material, whether due in whole or in part to the acts and/or omissions and/or negligent acts and/or omissions:

- (a) of the State of Indiana, INDOT, and/or its/their officials, agents, representatives, attorneys and/or employees, individually and/or jointly;
- (b) of the Contractor, and/or its officials, agents, representatives, attorneys and/or employees, individually and/or jointly;
- (c) of any and all persons, firms, corporations, insurers, government or other legal entity engaged in the performance of the contract; and/or
- (d) the joint negligence of any of them, including any claim arising out of the Worker's Compensation law or any other law, ordinance, order, or decree.

The Local Parties also agree to pay all reasonable expenses and attorney's fees incurred by or imposed on the State of Indiana, INDOT and/or its/their officials, agents, representatives, attorneys, and/or employees, individually and/or jointly, in connection herewith in the event that the Local Parties shall default under the provisions of this section.

2.12. Non-Discrimination.

A. Pursuant to I.C. 22-9-1-10 and the Civil Rights Act of 1964, the Local Party, shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Agreement, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin, ancestry or status as a veteran. Breach of this covenant may be regarded as a material breach of this Agreement. Acceptance of this Agreement also signifies compliance with applicable Federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.

B. The Local Party understands that INDOT is a recipient of Federal Funds. Pursuant to that understanding, the Local Party, agrees that if the Local Party employs fifty (50) or more employees and does at least \$50,000 worth of business with the State and is not exempt, the Local Party will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. The Local Party shall comply with Section 202 of executive order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of Contract.

It is the policy of INDOT to assure full compliance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and Section 504 of the Vocational Rehabilitation Act and related statutes and regulations in all programs and activities. Title VI and related statutes require that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. (INDOT's Title VI enforcement shall include the following additional grounds: sex, ancestry, age, income status, religion and disability.)

C. During the performance of this Agreement, the Local Party, for itself, its assignees and successors in interest (hereinafter referred to as the "Local Party") agrees to the following assurances under Title VI of the Civil Rights Act of 1964:

- (i.) Compliance with Regulations: The Local Party shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49 CFR Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- (ii.) Nondiscrimination: The Local Party, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, national origin, religion, disability, ancestry, or status as a veteran in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Local Party shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulation, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.
- (iii.) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Local Party for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Local Party of the Local Party's obligations under this Agreement, and the Regulations relative to nondiscrimination on the grounds of race, color, sex, national origin, religion, disability, ancestry, or status as a veteran.
- (iv.) Information and Reports: The Local Party shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Indiana Department of Transportation and Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Local Party is in the exclusive possession of another who fails or refuses furnish this information, the Local Party shall so certify to the Indiana Department of Transportation or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
- (v.) Sanctions for Noncompliance: In the event of the Local Party's noncompliance with the nondiscrimination provisions of this Agreement, the Indiana Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to: (a) withholding payments to the Local Party under the Agreement until the Local Party

complies, and/or (b) cancellation, termination or suspension of the Agreement, in whole or in part.

- (vi.) Incorporation of Provisions: The Local Party shall include the provisions of paragraphs a through f in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The Local Party shall take such action with respect to any subcontract or procurement as the Indiana Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the Local Party becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Local Party may request the Indiana Department of Transportation to enter into such litigation to protect the interests of the Indiana Department of Transportation, and, in addition, the Local Party may request the United States of America to enter into such litigation to protect the interests of the United States of America.

2.13. Notice to Parties. Whenever any notice, statement or other communication is required under this Agreement, it shall be sent to the following addresses, unless otherwise specifically advised of a change of address:

A. For INDOT:

Robert L. Zier
Director, Multimodal Planning and Programs
Indiana Department of Transportation
100 N. Senate Ave., Room N955
Indianapolis, IN 46204
Phone: 317-233-2376

B. For Rensselaer:

Mayor Stephen A. Wood
124 S. Van Rensselaer St.
P.O. Box 280
Rensselaer, IN 47978
Phone: 219-866-5212

C. For Tippecanoe County:

David Byers, Commissioner
Tippecanoe County
20 North Third Street
Lafayette, IN 47901
Phone: 765-423-9215

D. For Lafayette:

Mayor Tony Roswarski
20 N. 6th Street
Lafayette, IN 47901
Phone: 765-807-1002

E. For West Lafayette:

Mayor John R. Dennis
City Hall, 609 West Navajo Street
West Lafayette, IN 47906
Phone: 765-775-5102

F. For Crawfordsville:

Mayor Todd D. Barton,
300 E. Pike Street
Crawfordsville, IN 47933
Phone: 765-364-5160

G. For Indianapolis:

Anna Tyszkiewicz Gremling, Executive Director
Indianapolis Metropolitan Planning Organization
200 East Washington Street
City-County Building, Suite 1922
Indianapolis, Indiana 46204
Indianapolis, IN 46204
Phone: 317-327-5136

H. For Beech Grove:

Mayor Dennis Buckley
City Hall, 806 Main Street
Beech Grove, IN 46107
Phone: 317-788-4977 ext. #5000; 317-791-6060

2.14. Payment. All payments (if any) shall be made according to the terms of this Agreement and in conformance with State fiscal policies and procedures and, as required by IC 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the Local Party in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No payments will be made in

advance of receipt of the goods or services that are the subject of this Agreement except as permitted by IC 4-13-2-20.

If a Local Party has any outstanding balances on any Contract with INDOT, and such outstanding balances due to INDOT are at least sixty (60) calendar days past the due date, INDOT may proceed in accordance with I.C. 8-14-1-9 to invoke the powers of the Auditor of the State of Indiana to make a mandatory transfer of funds from the Local Party's allocation of the Motor Vehicle Highway Account to INDOT's account, or INDOT may withhold or garnish payments otherwise due to the Local Party from INDOT under this Agreement to partially or wholly satisfy such outstanding balances.

2.15. Severability. The invalidity of any section, subsection, clause or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Agreement.

2.16. Status of Claims. Each Local Party shall be responsible for keeping all other Parties currently advised as to the status of any claims made for damages against it resulting from services performed under this Agreement.

2.17. General. This Agreement represents the entire understanding between the Local Parties relating to the subject matter, and supersedes any and all prior oral and/or written communications, understandings or agreements relating to the subject matter. Any amendment or modification to this Agreement must be in writing and be signed by duly authorized representatives of the Parties. Neither this Agreement nor any portions of it may be assigned, licensed or otherwise transferred by any Party without the prior written consent of all other Parties. This Agreement will be binding upon the Parties and their permitted successors or assigns. Failure of a Party to enforce any provision of this Agreement will not constitute or be construed as a waiver of such provision or of the right to enforce such provision.

2.18. Headings. The headings are inserted for convenience only and do not constitute part of this Agreement.

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Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that he/she is the properly authorized representative, agent, member or officer of the Local Party, that he/she has not, nor has any other member, employee, representative, agent or officer of the Local Party, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of this Agreement.

In Witness Whereof, the Local Parties have, through their duly authorized representatives, entered into this Agreement. The Local Parties, having read and understood the foregoing terms of this Agreement, do by their respective signatures dated below hereby agree to the terms thereof.

**STATE OF INDIANA
DEPARTMENT OF TRANSPORTATION**

Troy A. Woodruff
Chief of Staff

Date: _____

CITY OF RENSSELAER

Stephen A. Wood
Mayor

Date: _____

TIPPECANOE COUNTY

Tom Murtaugh
Commissioner

Date: _____

CITY OF LAFAYETTE

Tony Roswarski
Mayor

Date: _____

CITY OF WEST LAFAYETTE

John Dennis
Mayor

Date: _____

CITY OF CRAWFORDSVILLE

Todd Barton
Mayor

Date: _____

**CITY OF INDIANAPOLIS
DEPARTMENT OF PUBLIC WORKS**

Lori Miser
Director

Date: _____

CITY OF BEECH GROVE

Dennis Buckley
Mayor

Date: _____

APPROVALS

STATE OF INDIANA
State Budget Agency

Brian E. Bailey, Director

Date: _____

STATE OF INDIANA
Department of Administration

Jessica Robertson, Commissioner

Date: _____

Approved as to Form and Legality:

Attorney General Gregory F. Zoeller (for)

Date Approved: _____